Ajax Paving Industries, Inc. and Lawson Dalton. Case 7-CA-18108

May 6, 1982

DECISION AND ORDER

By Chairman Van de Water and Members Fanning and Hunter

On October 19, 1981, Administrative Law Judge Sydney J. Barban issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and brief and has decided to affirm the rulings, findings, and conclusions of the Administrative Law Judge and to adopt his recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, Ajax Paving Industries, Inc., Detroit, Michigan, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order, except that the attached notice is substituted for that of the Administrative Law Judge.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

WE WILL NOT refuse to employ or in any other manner discriminate against our employees because they engage in concerted activities protected by the National Labor Relations Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of their rights guaranteed by Section 7 of the Act.

WE WILL offer Lawson Dalton immediate and full reinstatement to his former job, or, if that job no longer exists, to a substantially equivalent job, and WE WILL make Lawson Dalton whole for any loss of earnings, plus interest, and benefits he may have suffered by reason of the discrimination against him, in accordance with the Order of the National Labor Relations Board.

AJAX PAVING INDUSTRIES, INC.

DECISION

STATEMENT OF THE CASE

SIDNEY J. BARBAN, Administrative Law Judge: This matter was heard before me in Detroit, Michigan, on July 9, 1981, upon a complaint issued on September 26, 1980, based on a charge filed on August 7, 1980. The complaint alleges that Ajax Paving Industries, Inc. (herein called Respondent), violated Section 8(a)(1) of the National Labor Relations Act, as amended (herein called the Act), by failing and refusing to recall Lawson Dalton, the Charging Party, for engaging in certain asserted protected concerted activity. The answer to the complaint denies the unfair labor practices alleged, but admits allegations of the complaint sufficient to justify the assertion of jurisdiction under the Board's present standards (Respondent engaged in performing paving services for various entities and enterprises in the State of Michigan, and in a recent annual period rendered services valued in excess of \$50,000 to such entities and enterprises, each of which, during the same period, purchased and had transported goods of a value of \$50,000 from outside the State of Michigan directly to its facilities in the State of Michigan).

Upon the entire record in this case, from observation of the witnesses and their demeanor, and after due consideration of the briefs filed by the General Counsel and the Respondent, I make the following:

FINDINGS AND CONCLUSIONS

I. THE ISSUES

Lawson Dalton, an employee of Respondent, in the early fall of 1979, distressed by the fact that he, as well as other employees on his work crew, had been shorted in their pay for two successive pay periods, went to Respondent's main office and protested the situation to Respondent's payroll clerk. The General Counsel contends that Dalton's conduct in making this protest was protected concerted activity under the Act. Respondent, for reasons developed more fully hereinafter, asserts that Dalton's actions in this instance did not constitute protected activity.

Members of Respondent's work crews are normally laid off in the late fall of each year and recalled to work in April or May of the following year. However, in the spring of 1980, Dalton was informed that he had been replaced and would not be recalled to work. The General Counsel contends that Respondent failed and refused to recall Dalton to work because of his protest of the wage shortage to the payroll clerk the preceding year, as more fully discussed hereinafter. Respondent, on the other hand, contends that the reason Dalton was not recalled derived from adverse business conditions and Respondent's desire to retain the best employee in the job performed by Dalton. Respondent asserts further that, in

any event, there is no evidence that Respondent knew that Dalton's action was concerted, as distinguished from personal activity.

II. THE FACTS

A. The Wage Shortages

Dalton was employed by Respondent to operate a paving machine on a crew whose foreman was John (Jake) Potter (referred to as Potter's crew). In the fall of 1979 (probably late October or early November), because of the loss of 1 day's timecards, Respondent shorted the pay of each of the members of Potter's crew by a full day's pay, a clearly substantial amount. The employees discussed this among themselves. Dalton and at least some of the others protested this shortage of pay to Foreman Potter who advised that he would look into the matter and do what he could to get it adjusted. Dalton (and possibly some of the other employees) also protested this situation to W. Thomas Rea, Respondent's divisional manager for the area in which Potter's crew was located, Dalton asking, "when we were going to get our money." However, the employees were not only not paid for the first shortage at this time, but on the next payday their paychecks were also for less than the amounts due. The reason for this second shortage is not clear, but seems to have been occasioned by Rea's failure to notify the payroll clerk that certain checks which had been drawn to partially reimburse the employees for the lost time on the first paychecks had not, in fact, been given to the employees.1 During a subsequent pay period, after Dalton's protest to the payroll clerk, as set forth below, these shortages were paid to the employees on Potter's crew.

B. Dalton's Protest to the Payroll Clerk

One morning, after the second shortage in the employees' paychecks, Dalton went to Respondent's main office, where he spoke with the payroll clerk. According to Dalton, he "just asked her about my shortage of pay and if she knew why we hadn't received it, or why I hadn't received mine." Dalton stated that she replied that Rea had lost the timecards and there was no way that she could make out replacement checks unless she had the timecards, that she would "get right on it and see about it and find out about it."

The payroll clerk, Dale Diane Kazeta, testified that Dalton "walked into the office and said he was short and asked me what the hell I was going to do about it and when this shit was going to stop," that she responded that "there was nothing I could do about it, I would have to get in touch with [Rea] in order to rectify this error." Kazeta then called Rea, on a two-way radio

¹ Rea testified that he had offered such "advances" to the employees on two occasions, but they had not been rejected. No reason was developed for this refusal. The matter is not significant, but I suspect the advances were rejected because they were less than the full amount due. communication and asked him to come to the office to straighten out this matter. Rea then returned to the office and spoke with her about this.

Dalton denied that he was "upset or mad" when he was talking to Kazeta, or that he swore at her, or used the language which she attributed to him.³

Upon consideration of the entire record I am inclined to the belief that the actual words spoken were probably much less vulgar than Kazeta now recalls and very likely much more vigorous than Dalton states. The evidence certainly indicates that Kazeta was less distressed by Dalton's language then than is now claimed. Thus, Rea, to whom she told the story of her encounter with Dalton when it was fresh, and who immediately went to the jobsite where (as discussed below) he lectured the entire crew because of the incident, did not mention the alleged vulgar language at the time. Nor does it appear that Rea, at the time, or at any time before Dalton was laid off in the fall, mentioned to Dalton this alleged use of immoderate language, or complained about the manner of his approach to Kazeta rather than the fact that Dalton had bypassed Rea in going to see the payroll clerk instead of going through the "chain of command." Indeed, according to Kazeta's testimony, it appears that she was as much upset, on this occasion, with Rea for failing to advise her that the "advance" checks had not been delivered to the crew (and thus presumably causing her to short them a second time) as she was with Dalton.

When Dalton left the office, he went to the jobsite where he informed the crew as to what he had done. One crewmember said that if he had known, he would have accompanied Dalton to the office.

C. Rea's Reaction to Dalton's Protest

After talking with Kazeta about Dalton's visit to the main office. Rea went to the jobsite where Potter's crew was working, called all the employees together, and lectured them on Dalton's visit to the payroll clerk. Dalton, two members of Potter's crew at the time, Rick Mitchell and Donald Nelson, and Rea testified as to the occurrence. With the exception of one issue raised by Dalton-more apparent than real-the accounts of each of them is essentially the same. In the words of Nelson, Rea "called us all together and talked to us about our shortage in our check. He told us our timecard had been lost and to give him a little time and he'd get it straightened away for us." Nelson recalled that thereafter a considerable part of Rea's remarks was directed at Dalton about going to the office to talk to the payroll clerk, "who didn't have no authority at all," instead of coming to Rea first. In the interchange between Rea and Dalton, Nelson recalls Rea saying that if Dalton "wasn't satisfied with the way we were running things, he could go to the office and pick up his check and quit." Later Nelson recalled that Rea had said that the payroll clerk "was upset because [Dalton] was talking to her about his

Though Kazeta testified that the payroll shortage on Potter's crew was "initially" brought to her attention when Dalton walked into the office and said he had been short, the record is clear that she had previously known about the original shortage and had prepared "advances" to partially compensate for the shortages.

³ Though Dalton on a number of occasions categorically denied using this language to the payroll clerk, he also, during cross-examination, stated that he did not recall using such language, and when pressed as to whether it was possible, stated "anything is possible with humans." I weighed this in assessing Dalton's credibility.

shortage in money and there was nothing she could do about it."

Similarly, Mitchell testified that Rea was upset "because Dalton had gone to the office and he thought we should be able to pull together better and let him handle these matters," further "that we didn't need men like that, that if he couldn't wait . . . for his money, we didn't need people like that," and Rea, in addition, spoke of "having faith in the company," that when he worked long hours, he knew he would always get his money, "and that we should have the patience to do that."

On cross-examination, Mitchell reiterated that Rea said he was upset because "they" all should work as a team and because Dalton, instead of coming to Rea, had gone to see the wrong person in the office, which, in Rea's opinion, was the wrong thing to do.

Rea's testimony was to the effect that he was upset because Dalton had gone outside "the chain of command" and upset the payroll clerk who was powerless to correct the error.

As noted previously, I find no evidence in any of the testimony that Rea complained to the crew or to Dalton about the language Dalton was alleged to have used to Kazeta

Dalton asserts that on this occasion Rea attempted to fire him, but that he insisted that only foreman or the management official who hired him could terminate him. Rea denies that he attempted to fire Dalton, though he states he told the men that "if we couldn't work together as a team . . . from management all the way down, then maybe we had better take a long, hard look at ourselves as to whether we should be there." Neither Mitchell nor Nelson recalled that Rea specifically fired Dalton. On the whole record, I find that he did not, though he certainly gave Dalton good reason to understand that he was being invited to leave.

Dalton continued to work until the end of the season in 1979.

D. The Failure To Recall Dalton

It was Respondent's custom to have the crew foreman, in the spring, call his crewmembers to come in for a physical examination and shortly after notify members of the crew to come in for work for the new season. In the spring of 1980, Potter called Dalton to come in for his physical examination, but shortly thereafter Rea called Dalton and advised him not to come in to work because he had been replaced on Potter's crew.

Rea testified, and it does not seem to be disputed, that few if any bids for paving work were let by the State of Michigan—a primary source of Respondent's business—in late 1979 and early 1980, when such work would normally be awarded. Consequently, 1980 was a poor year for Respondent's business. Rea asserts that Respondent decided early in the year that it would have to retrench, and, as a result, out of four paving crews (two in Rea's area, and two in a nearby area) two paving crews were disbanded (one in each area). Potter's crew was retained.

In the one crew outside Rea's area that was retained, the paving operator, Bob Lemerand, was retained with his crew. When the second crew in that area was disbanded, the paving operator, Smazel, was nevertheless retained and transferred to Potter's crew in Rea's area. In the one crew in Rea's area which was disbanded, the paving operator, Al Denno, was laid off. Dalton was the only operator in any classification (paver or roller operator) who was laid off notwithstanding the fact that his crew was maintained. Respondent has a policy of trying to maintain its crews intact year after year, to provide continuity, as Rea explained when questioned as to why Lemerand was not laid off.

Rea testified that the management group with which he met weighed whether to retain Smazel whose crew was going to be disbanded, or Dalton whose crew was to be retained.⁵ From the record it appears that both Dalton and Smazel are, and management considered them both to be, very good operators. Rea states, however, that it was decided to retain Smazel because he maintained his equipment better than Dalton maintained his. There is no explanation as to why it was decided not to let Smazel replace Lemerand, except for Rea's assertion of Respondent's policy of trying to keep its crews intact, which, of course, would apply equally to Dalton.

E. Dalton's Maintenance of Equipment

Dalton was employed by Respondent in 1971 or 1972, most likely the latter, as a roller operator. Thereafter, whenever needed, he filled in as a paver operator and became a full-time paver operator for Respondent in 1975 or 1976. From the record as a whole it appears that he became an excellent operator. As far as I can ascertain, Respondent does not contend that it found any fault with him prior to 1979, and even then it appears that Respondent did not tell Dalton that his work was being faulted. Thus Rea, the divisional manager, after testifying that there were "a lot of discussions" about Dalton "teetering on the brink of discharge or discipline because he did not maintain his machine," then stated that he "never mentioned" anything about this to Dalton and he was sure that Potter, the foreman, "didn't either." Rea says that he never communicated these concerns "directly" to Dalton because Rea "was trying to keep everybody intact," a non sequitur, which here again explains nothing.6

Upon close analysis, Respondent's complaint against Dalton appears to consist of two elements which, at the outset, will be considered separately. First, Respondent's maintenance manager, Joe Damron, testified that, according to computer readouts, "the machine cost [of Dalton's paver] was running too high" and "[i]t was costing us money." He stated that he reported this to Re-

⁴ Dalton was a member of the Operating Engineers Union, which had a collective-bargaining contract covering Respondent's operations. It is sometimes the custom that union men are dismissed only by the foreman.

⁵ Rea's testimony in this area, as well as generally, did not impress me favorably. He tended to be nonresponsive, vague, nonspecific, and at times inconsistent.

⁶ At another place, on cross-examination, when asked if he told "Dalton that the fault rested with him," Rea evasively replied that "[h]e's the paver operator and he knows that he is responsible for his equipment, as well as the roller operators know that they're responsible for his equipment from a maintenance point of view." Dalton did not recall whether Rea had spoken to him about this.

spondent's division manager, as well as the fact that "the machine wasn't being kept clean, it wasn't being properly maintained." Rea also testified that Damron complained to him that the machine was costing "a lot more money to maintain" than "other pieces of equipment of comparable age." However, Respondent nowhere explains how Dalton's actions, or his failure to perform, contributed to this asserted excessive cost of maintaining Dalton's paver, except to the extent his asserted failure to "clean" his paver, discussed hereinafter, may have contributed to that result.

Dalton, on the other hand, attributed the necessity of repairs to the age of the paver, which was already much used when he was assigned to it in 1975-76. Dalton testified, without contradiction, that when, in 1979, he reported that the machine needed repairs, Damron told him to go ahead and finish the season with the machine the way it was, that Respondent had a new machine ordered and would get rid of Dalton's paver at the end of the season.

Secondly, with respect to Respondent's claim that Dalton did not keep his machine "clean," significantly this complaint is asserted to come from Damron, who has only infrequent contact with the 500 or more pieces of Respondent's equipment during the season, and not from the foreman of the crew (who did not testify) who presumably would have daily observation of the crew and the equipment.9 Dalton testified that he performed the daily maintenance required on his paver—washing it down, cleaning out the moving parts, and greasing the necessary parts. Two employee witnesses on his crew testified that on those occasions when they had an opportunity to observe (the workday of the others normally ended before Dalton's), they saw Dalton cleaning and maintaining his machine. There were apparently minor exceptions to some of this routine. In certain situations it was not practical or permissible to clean the machine with the diesel fuel used for this purpose. And, on one occasion, Dalton recalled that he was compelled to send the paver in for repairs without cleaning out the asphalt because of the nature of the broken parts. In which instance he notified the maintenance people of the prob-

On the whole, I credit Dalton that he cleaned and maintained his paver daily, as required. He was an experienced paving operator. He was not warned or criticized concerning such alleged dereliction. Neither Rea nor the crew foreman testified to observing a single instance in which Dalton failed in these duties and he was supported, to some extent, by other members of his crew. Damron obviously had little or no opportunity to observe whether Dalton cleaned his equipment. In any

event, I have difficulty in following Damron's assertion that Dalton's claimed failure to clean his machine every day was the cause of excessive maintenance costs for the machine. When asked about this, he referred only to the difficulty in cleaning the machine after asphalt has hardened overnight.

III. ANALYSIS AND CONCLUSIONS

A. The Alleged Concerted Activity

Employees have the right under Section 7 of the Act to engage in concerted activities in protest of their working conditions and to attempt to improve or correct those conditions. See N.L.R.B. v. Washington Aluminum Company, Inc., 370 U.S. 9 (1962). Respondent does not contest this principle, but contends that Dalton's action in going to see Respondent's payroll clerk to protest shortages in the paychecks received by Dalton and the other members of his paving construction crew was an individual action, in his own behalf, not concerted activity; further that Respondent did not know and had no way of knowing that Dalton's activity was on behalf of the other employees, and, even if Dalton were acting on behalf of the others, his conduct was not protected. I find these contentions to be without merit.

Because of the loss of 1 day's timecards, and some confusion in Respondent's payroll operation, thereafter, the members of the paving crew on which Dalton was employed were substantially shorted in their pay on two successive occasions. They complained of this to their foreman and, at least some of them, to Rea, the divisional manager. The employees also talked among themselves about these shortages in pay. After the second shortage, Dalton went to the Respondent's main office where he spoke with Respondent's payroll clerk. 10 At the office, using some vigorous language (the clerk says this included the words "hell" and "shit"), he asked her, in his words, "about my shortage of pay" and "why we hadn't received it or why I hadn't received mine." After some mollifying words from the clerk Dalton went back to the jobsite where he told the crew what he had done. At least one employee said he would have accompanied Dalton if he had known of the trip to the office in advance.

When Division Manager Rea learned from the payroll clerk what had occurred, he went directly to the jobsite, where he gathered the entire crew together and lectured the entire crew on making their protests about working conditions only through the "chain of command." In particular, Rea invited Dalton to terminate his employment if he and the other employees could not work as a team with management. Significantly, Rea did not complain, then or later, to the employees as a group, or Dalton alone, about the language used to the payroll clerk.

⁷ To the extent that the testimony of Rea and Damron conflicts with that of Dalton on this issue, I credit Dalton.

⁸ At the hearing, Rea and Damron explained that by this they mean not only washing down the outside of the machine, but cleaning out certain moving parts each day, as well as daily greasing of moving parts in the paver. The General Counsel points out that in Rea's affidavit to the General Counsel Rea referred only to keeping the paver "clean."

⁹ Damron stated that he sees "a majority" of the equipment in the wintertime, and, during the season, only whatever is brought in for major repair. There is specific indication of only one instance that Dalton's paver was brought in for major repair in 1979.

Respondent makes some point, in passing, that the payroll clerk had no authority to do anything about the shortages. However, it does not claim that Dalton knew she had no authority. Indeed, Respondent asserts other employees have also gone to the payroll clerk with similar questions or complaints.

On these facts, and the record as a whole, I find that in complaining to Respondent's payroll clerk about the shortages in pay, Dalton was engaged in concerted activities protected by the Act. His action involved a matter of immediate common concern to all the members of his work crew, which they had discussed among themselves and with supervision. To the extent that Dalton was successful in his mission, all the employees would be benefited, as, indeed, all were, when shortly thereafter they were all paid what was owing—a result to which I have no doubt Dalton's action contributed. 11 There is no indication that any employee disapproved of what Dalton had done, and, indeed, the evidence indicates that when informed they approved his effort. Also, significantly, Divisional Manager Rea perceived that Dalton's action was on behalf of all the employees since he immediately went to the jobsite and called the entire crew together to complain to all of them about what Dalton had done. From this last, and from the record as a whole, I find that contrary to Respondent's contention, Respondent realized that Dalton was not engaged in a personal adventure, but was acting on behalf of the entire crew in his visit to the main office. It is also clear from Rea's actions at the time that he was then not concerned about Dalton's language to the payroll clerk-for he did not complain about it to Dalton or the other employees—though Respondent now seems to contend it should be considered disqualifying. I have not the slightest doubt that the language used was common among Respondent's workers and well known to the payroll clerk, which may well be the reason Rea did not complain about it to the employees at the time.

B. Respondent's Motivation in Terminating Dalton

It is not disputed that, in the spring of 1980, among four paving crews in two divisions, Respondent dissolved two crews (one in each division) for good business reasons. In the Pontiac Division, one paving crew was retained, including its paving operator, Lemerand. In that division, the second crew was disbanded and the members of that crew, except for Smazel, the paving operator, were not recalled to work for the 1980 season. In the remaining division, Dalton's crew was retained, but he was not recalled to work, and was replaced by Smazel. The second crew in that division was disbanded and all members, including the paving operator, were laid off.

In essence, Respondent's position is that it had two paving positions in the spring of 1980 and considered three paving operators, Lemerand, Smazel, and Dalton for those two positions. No reason was originally given for retaining Lemerand, but, on cross-examination, Rea referred to Respondent's policy not to break up existing crews in order to provide continuity in the crew. There is no evidence as to the ability or performance of Lemerand. According to Rea, Dalton and Smazel were equally good operators. Rea states that Respondent, nevertheless, chose Smazel over Dalton because of the latter's asserted laxness in maintaining his equipment, a contention that I find, for reasons discussed above, to be meritless.

Respondent finally argues that it is not rational (an "absurdity") to contend that the failure to recall Dalton was due to a desire "to discriminate against a long-term employee... because he registered a complaint about a paycheck shortage with a payroll clerk some 8 to 9 months earlier" (br. p. 14). However, the facts do not seem to allow of any other conclusion. Rea's reaction to Dalton's action was hostile and intense and made known to the other employees. It would seem that Rea did not follow through on his desire to get rid of Dalton immediately because of the nearness to the end of the 1979 season. In 1980, Foreman Potter actually indicated to Dalton that he would be recalled before Rea advised Dalton that he would be replaced.

Further, Respondent's explanations for this action raise more questions than they provide answers. Lemerand and Smazel were in the same division. It would seem logical, if Smazel were to be retained, that he should replace Lemerand rather than Dalton. The only reason given for retaining Lemerand, a policy against breaking up the crew, applies equally to Dalton. No contention is made that Lemerand was a better operator than or as good an operator as Dalton. Respondent's contention that Dalton was remiss in maintaining his equipment—a complaint never made to Dalton-I have found pretextual. In the circumstances, on the facts found above, and on the entire record. I find that by failing and refusing to recall Lawson Dalton to work in 1980 and thereafter because of his protected concerted activities, Respondent violated Section 8(a)(1) of the Act.

CONCLUSIONS OF LAW

- 1. Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act
- 2. Respondent, by failing and refusing to recall Lawson Dalton to work in 1980 and thereafter and refusing to employ him because he engaged in concerted activities protected by the Act, violated Section 8(a)(1) of the Act.
- 3. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

It having been found that Respondent has been and is engaged in unfair labor practices in violation of the Act, it will be recommended that it cease and desist therefrom and take certain affirmative action to effectuate the purposes of the Act.

It having been found that Respondent discriminated against Lawson Dalton in violation of Section 8(a)(1) of the Act, it will be recommended that Respondent offer him immediate and full reinstatement to his former job,

¹¹ It is also noted that Dalton's action served to induce Respondent to comply with the current collective-bargaining agreement with the Operating Engineers Union which not only provided the employees' rates of pay, but, also, in art. VIII, sec. 5, provides that "All wages shall be paid to the employees at least once a week on the jobsite." (This requires, clearly, that all wages due the employees be paid once a week.) Respondent argues, however, that Dalton never said he was trying to enforce the contract. In the circumstances here, that was not necessary.

The General Counsel also relies on the Michigan statute requiring payment of wages to workers at least every 2 weeks, which I have judicially noticed. I have not relied on this law.

or if such job no longer exists, to a substantially equivalent job, without prejudice to his seniority or other rights and privileges, and make him whole for any loss of pay and benefits he may have suffered as a result of the discrimination against him by payment of such sums of money as he would have earned as wages and benefits from the date of the discrimination against him to the date of Respondent's offer of reinstatement, less his net earnings during such period, in accordance with the formula prescribed in F. W. Woolworth Company, 90 NLRB 289 (1950), together with interest thereon to be computed in the manner prescribed in Florida Steel Corporation, 231 NLRB 651 (1977); see, generally, Isis Plumbing & Heating Co., 138 NLRB 716 (1962).

Upon the foregoing findings of fact, conclusions of law, and the entire record, and pursuant to Section 10(c) of the Act, I issue the following recommended:

ORDER 12

The Respondent, Ajax Paving Industries, Inc., Detroit, Michigan, its officers, agents, successors, and assigns, shall:

- 1. Cease and desist from:
- (a) Refusing to employ or otherwise discriminating against employees because they engage in concerted activities protected by the Act.
- (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights guaranteed by Section 7 of the Act.

- 2. Take the following affirmative action which is necessary to effectuate the purposes of the Act:
- (a) Offer Lawson Dalton immediate and full reinstatement to his former job, or if the job no longer exists, to a substantially equivalent job, and make him whole for any loss of earnings or benefits he may have suffered by reason of the discrimination against him, in accordance with the provisions set forth in the section of this Decision entitled "The Remedy."
- (b) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to the effectuation of the Order herein.
- (c) Post at its operations in and about Detroit, Michigan, copies of the attached notice marked "Appendix." Copies of said notice, which shall be duly signed by a representative of Respondent, on forms supplied by the Regional Director for Region 7, shall be posted by Respondent immediately upon receipt thereof, and maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken to ensure that said notices are not altered, defaced, or covered by any other material.
- (d) Notify the Regional Director for Region 7, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

¹² In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rlles and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

¹³ In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."